

House File 692 - Introduced

HOUSE FILE _____
BY HUNTER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring employers to provide employees with meal periods
2 and rest periods and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2519YH 82
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1 1 Section 1. Section 84A.5, subsection 3, Code 2007, is
1 2 amended to read as follows:
1 3 3. The division of labor services is responsible for the
1 4 administration of the laws of this state under chapters 88,
1 5 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 91F, 92,
1 6 and 94A, and sections 30.7 and 85.68. The executive head of
1 7 the division is the labor commissioner, appointed pursuant to
1 8 section 91.2.
1 9 Sec. 2. NEW SECTION. 91F.1 MEAL AND REST PERIODS ==
1 10 REQUIREMENTS.
1 11 1. DEFINITIONS:
1 12 a. "Employee" means a natural person who is employed in
1 13 this state for wages by an employer.
1 14 b. "Employer" means a person, as defined in section 4.1,
1 15 who in this state employs for wages a natural person. An
1 16 employer does not include a client, patient, customer, or
1 17 other person who obtains professional services from a licensed
1 18 person who provides the services on a fee service basis or as
1 19 an independent contractor.
1 20 2. An employer shall provide an employee with appropriate
1 21 meal periods and appropriate rest periods.
1 22 a. An appropriate meal period shall be a period of not
1 23 less than thirty minutes during an employee's work period in
1 24 which an employee works at least seven hours. The meal period
1 25 shall be taken between the second and fifth hours. If an
1 26 employee works more than seven hours, the meal period shall be
1 27 taken between the third and sixth hours.
1 28 b. An appropriate rest period shall be a paid period of
1 29 not less than ten minutes during every consecutive four-hour
1 30 period of work and is taken by an employee approximately in
1 31 the middle of each four-hour period. The rest period is in
1 32 addition to a meal period, if applicable, and shall not be
1 33 added to a meal period or deducted from the work period to
1 34 reduce the overall length of the total work period.
1 35 3. An employer is not required to pay for a meal period if
2 1 an employee is free from work duties during the employee's
2 2 entire meal period. An employee shall be paid for the meal
2 3 period if any of the following occur:
2 4 a. The employee is required or allowed to remain on duty.
2 5 b. The employee is required to be on-call at the work
2 6 premises or designated worksite to be available to return to
2 7 duty even if the employee is not called back to duty.
2 8 c. The employee is called back to duty during the
2 9 employee's meal period even though the employee is not usually
2 10 on-call during the meal period.
2 11 Sec. 3. NEW SECTION. 91F.2 MEAL AND REST PERIODS ==
2 12 EXEMPTIONS.
2 13 1. Meal and rest period requirements may be modified by
2 14 the terms of a collective bargaining agreement if the
2 15 collective bargaining agreement entered into by the employees
2 16 prescribes specific terms concerning meal periods and rest
2 17 periods.
2 18 2. Meal and rest period requirements apply only to hourly
2 19 paid employees. Management or salary-paid employees or
2 20 employees involved in agricultural jobs are not required to

2 21 have breaks or meal breaks. For the purposes of this section,
2 22 agricultural jobs do not include work in the production of
2 23 seed, limited to removal of off-type plants, corn tassels and
2 24 hand-pollinating during the months of June, July, and August
2 25 by persons ages fourteen and older.

2 26 3. Meal period requirements may be waived when an employer
2 27 can show that the ordinary nature and circumstance of the work
2 28 prevented the employer from establishing and maintaining a
2 29 regularly scheduled meal period. The circumstances in which
2 30 the requirements may be waived are limited to the following:

2 31 a. The safety and health of employees, patients, clients,
2 32 and the public.

2 33 b. The lack of other employees available to provide relief
2 34 to an employee.

2 35 c. The cost involved in shutdown and startup of machinery
3 1 in continuous operation of the industrial process.

3 2 d. The intermittent and unpredictable workflow not
3 3 controlled by the employer or employee.

3 4 e. Unforeseeable equipment failures, emergencies, or acts
3 5 of nature that require immediate and uninterrupted attention
3 6 by an employee.

3 7 Sec. 4. NEW SECTION. 91F.3 CIVIL PENALTIES.

3 8 1. Any employer who violates the provisions of this
3 9 chapter or the rules adopted pursuant to this chapter is
3 10 subject to a civil money penalty of not more than one hundred
3 11 dollars for each violation. The commissioner may recover the
3 12 civil penalty according to subsections 2 through 5. Any civil
3 13 penalty recovered shall be deposited in the general fund of
3 14 the state.

3 15 2. The commissioner may propose that an employer be
3 16 assessed a civil penalty by serving the employer with notice
3 17 of such proposal in the same manner as an original notice is
3 18 served under the rules of civil procedure. Upon service of
3 19 such notice, the proposed assessment shall be treated as a
3 20 contested case under chapter 17A. However, an employer must
3 21 request a hearing within thirty days of being served.

3 22 3. If an employer does not request a hearing pursuant to
3 23 subsection 2 or if the commissioner determines, after an
3 24 appropriate hearing, that an employer is in violation of this
3 25 chapter or the rules adopted pursuant to this chapter, the
3 26 commissioner shall assess a civil penalty which is consistent
3 27 with the provisions of subsection 1 and which is rendered with
3 28 due consideration for the penalty amount in terms of the size
3 29 of the employer's business, the gravity of the violation, the
3 30 good faith of the employer, and the history of previous
3 31 violations.

3 32 4. An employer may seek judicial review of any assessment
3 33 rendered under subsection 3 by instituting proceedings for
3 34 judicial review pursuant to chapter 17A. However, such
3 35 proceedings must be instituted in the district court of the
4 1 county in which the violation or one of the violations
4 2 occurred and within thirty days of the day on which the
4 3 employer was notified that an assessment has been rendered.
4 4 Also, an employer may be required, at the discretion of the
4 5 district court and upon instituting such proceedings, to
4 6 deposit the amount assessed with the clerk of the district
4 7 court. Any moneys so deposited shall either be returned to
4 8 the employer or be forwarded to the commissioner for deposit
4 9 in the general fund of the state, depending on the outcome of
4 10 the judicial review, including any appeal to the supreme
4 11 court.

4 12 5. After the time for seeking judicial review has expired
4 13 or after all judicial review has been exhausted and the
4 14 commissioner's assessment has been upheld, the commissioner
4 15 shall request the attorney general to recover the assessed
4 16 penalties in a civil action.

4 17 Sec. 5. NEW SECTION. 91F.4 DUTIES AND AUTHORITY OF
4 18 COMMISSIONER.

4 19 1. The labor commissioner shall adopt rules to administer
4 20 and enforce this chapter and shall provide further exemptions
4 21 from the provisions in this chapter when reasonable.

4 22 2. In order to carry out the purposes of this chapter, the
4 23 labor commissioner or the commissioner's designee, upon
4 24 presenting appropriate credentials to the employer or agent of
4 25 the employer, may do any of the following:

4 26 a. Inspect employment records relating to meal and rest
4 27 periods for employees.

4 28 b. Interview an employer or an agent of the employer or
4 29 employee, during working hours or at other reasonable times.

4 30 EXPLANATION

4 31 This bill creates a new Code chapter 91F that requires an

4 32 employer to provide an employee with appropriate meal periods
4 33 and appropriate rest periods.

4 34 The bill states that an appropriate meal period shall be
4 35 not less than 30 minutes during an employee's work period of
5 1 at least seven hours. The meal period is taken between the
5 2 second and fifth hours of the work or, if the employee works
5 3 more than seven hours, between the third and sixth hours.

5 4 The bill states that an appropriate rest period shall be a
5 5 paid period of not less than 10 minutes during every four-hour
5 6 work period. The rest period is taken in the middle of the
5 7 work period. The rest period is in addition to the meal
5 8 period and cannot be added to the meal period or deducted from
5 9 the work period to reduce the overall length of the total work
5 10 period.

5 11 The bill defines an "employee" as a natural person who is
5 12 employed in this state for wages by an employer. An
5 13 "employer" is defined as a person, as defined in Code section
5 14 4.1, who employs a natural person for wages.

5 15 The bill provides that an employer is not required to pay
5 16 for a meal period if an employee is free from work duties
5 17 during the employee's entire meal period.

5 18 The bill allows three exemptions to the meal and rest
5 19 period requirements. The first exemption is if the meal and
5 20 rest period requirements are modified by the terms of a
5 21 collective bargaining agreement. However, the exemption is
5 22 valid only if the collective bargaining agreement entered into
5 23 by the employees prescribes specific terms concerning meal
5 24 periods and rest periods.

5 25 The second exemption states that meal and rest period
5 26 requirements apply only to hourly paid employees. Management
5 27 or salary-paid employees or employees involved in agricultural
5 28 jobs are not required to have breaks or meal breaks.

5 29 The third exemption is when an employer can show that the
5 30 ordinary nature and circumstance of the work prevented the
5 31 employer from establishing and maintaining a regular scheduled
5 32 meal period.

5 33 The bill provides civil penalties for violating the new
5 34 Code chapter. An employer who violates the provisions shall
5 35 be subject to a penalty of up to \$100 for each violation. The
6 1 labor commissioner may recover the penalties under Code
6 2 chapter 17A contested case procedures. Any penalties
6 3 recovered shall be deposited in the general fund of the state.

6 4 The commissioner may propose that an employer be assessed a
6 5 penalty by serving the employer with notice of a penalty in
6 6 the same manner as an original notice is served under the
6 7 rules of civil procedure.

6 8 The bill provides the labor commissioner with the authority
6 9 to adopt rules to administer and enforce the chapter to
6 10 provide further exemptions from the provisions when
6 11 reasonable. Also, the labor commissioner or the
6 12 commissioner's designee may inspect employment records
6 13 relating to rest periods for employees and interview an
6 14 employer or an agent of the employer or employee, during
6 15 working hours or at other reasonable times.

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